



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,497	10/08/2003	Stephen G. Bales	LA 001	5906
48373	7590	02/05/2008	EXAMINER	
STEPHEN G. BALES	17 HART LANE	DANIELS, MATTHEW J		
SEWELL, NJ 08080		ART UNIT		PAPER NUMBER
		1791		
MAIL DATE		DELIVERY MODE		
02/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/681,497	BALES, STEPHEN G.	
	Examiner MATTHEW J. DANIELS	Art Unit 1791	

All participants (applicant, applicant's representative, PTO personnel):

(1) MATTHEW J. DANIELS. (3) \_\_\_\_\_.

(2) Stephen G. Bales. (4) \_\_\_\_\_.

Date of Interview: 01 February 2008.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1, 11 and 14.

Identification of prior art discussed: None.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Bales submitted the enclosed fax proposing a list of items for discussion in a telephone interview. The Examiner noted that the new rejections set forth by the BPAI are binding on the Examiner, and also noted the language in MPEP 1214.01 which states that if the Appellant elects to proceed before the Examiner with regard to the new rejection, it must include either (1) an appropriate amendment to the claims or (2) new evidence, in order to avoid treatment of the response as a request for rehearing on those claims. The Examiner responded to item 1 by noting that the items listed would be treated as new evidence. Mr. Bales proposed to change the boron-containing materials in Claims 11 and 14, but the Examiner noted that it appears that the substitute materials, which are not recited specifically by the specification, are not sufficiently described to support the proposed change. Mr. Bales also proposed deletion of the phrase "caused by mold attack" from the independent claim, but the Examiner argued that further limitation in the scope of the claim would be required to overcome the new rejection set forth by the BPAI. Additionally, the Examiner noted the filing date of the 11/702,142 application, and that the 11/702,142 application has not yet been examined.

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner.  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

**L O R D ' S A D D I T I V E S L L C**

8 5 6 - 4 1 5 - 1 3 7 4

8 5 6 - 4 1 5 - 0 2 2 7 (F))

**FACSIMILE TRANSMITTAL SHEET**

TO:	FROM:
Matthew Daniels	Stephen Bales
COMPANY:	DATE:
USPTO	1/31/2008
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
571-273-2450	1
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
571-272-2450	
RE:	YOUR REFERENCE NUMBER:
APPL 10/681,497	

Matt,

We have received the BPAI decision of Jan 24<sup>th</sup> and would like to discuss the following questions regarding reopening prosecution of claims 1,4,5,11,14, and 15.

1. We have discovered two pieces of evidence, one of which is an international patent application submitted by two of the inventors of referenced prior art showing that claim 1 --the introduction of boron containing compounds to resist surface impairment in wood plastic composites --produced surprising results. Would you be able to consider these two documents?
2. Would we be able to amend claims 11 and 14 to add other boron-containing compounds and possibly delete some of the existing ones?
3. If we can't add boron compounds to those claims, would it be possible to simultaneously prosecute 10/681,497 and our request for a continuation in part of this application (11/702,142) in which we do add other boron containing compounds?

Would appreciate some times that are convenient for you where we could discuss these questions. At most 30 minutes would be required.

Thank you  
Stephen Bales